

**TENNESSEE BOARD OF PHARMACY
MAY 17 - 18, 2005
ROOM 160 – DAVY CROCKETT TOWER
NASHVILLE, TN**

BOARD MEMBERS PRESENT:

Reggie Dilliard, President
Julie Frazier, Vice President
Sheila Mitchell, Member
James Mitchell, Member
Monica Franklin, Public Member*
Todd Bess, Member
Robert Shutt, Member

STAFF PRESENT:

Kendall Lynch, Director
Alison Z. Cleaves, Chief Legal Counsel
Martha Agee, Board Administrator
Terrence Cannada, Pharmacist Investigator
Harry Fuqua, Pharmacist Investigator
Terry Grinder, Pharmacist Investigator
Richard Hadden, Pharmacist Investigator
Ralph Staton, Pharmacist Investigator

The Tennessee Board of Pharmacy convened on Tuesday, May 17, 2005, in Room 160 of the Davy Crockett Tower, 500 James Robertson Parkway, Nashville, Tennessee. A quorum of the members being present, the meeting was called to order at 9:05 a.m. CDT by Dr. Reggie Dilliard, President. *President Reggie Dilliard noted for the record that Mrs. Monica Franklin was not present at roll call and she arrived at approximately 9:10 a.m. Director Kendall Lynch introduced two (2) pharmacy students who are attending the University of Tennessee, College of Pharmacy, Ms. Dylashia Land and Ms. Jennifer Bramlett, who are participating in the Tennessee Health Interdisciplinary Program; and Ms. Emily Wood, who is attending Mercer University and is interning at Walgreen. Legal Counsel, Mrs. Alison Cleaves introduced Ms. Leslie Stuart, who is attending the University of Tennessee at Knoxville Law School.

APPROVAL OF THE MINUTES

The **minutes of the March 15 - 16, 2005** board meeting were presented and reviewed by the Board. Director Kendall Lynch stated he received two corrections noted by e-mail. In the complaint report on page 20, the word "Meclizine" was misspelled and on page 30, under the heading, Tripartite Meeting, "the rules for pharmacist generated prescriptions relevant to Medicare Part B" should be referred to as "Medicare Part D". Dr. Julie Frazier motioned to **approve the minutes as amended**, seconded by Dr. Todd Bess. All were in favor and the motion carried.

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FORMAL HEARING

MELISSA HAVELY, RT
96 Fairway Drive
Greeneville, TN 37743

The Honorable Marion Wall, Administrative Law Judge presided at the hearing to consider the matter of Melissa Havelly. Mrs. Alison Cleaves, Chief Legal Counsel for Regulatory Boards, Department of Commerce & Insurance represented the State of Tennessee. Mrs. Cleaves noted for the record that Ms. Havelly was not present nor represented by counsel. Present at the hearing were Board members Dr. Reggie Dilliard, Dr. Julie Frazier, Dr. Sheila Mitchell, Dr. Robert Mitchell, Mrs. Monica Franklin, Dr. Todd Bess and Dr. Robert Shutt. Chief Legal Counsel, Mrs. Cleaves presented evidence whereas Ms. Melissa Havelly received certified mail relevant to the Notice of Hearing and Charges, by signing the green certified mail receipt card. Mrs. Cleaves asked for a motion to proceed with the hearing for default. Dr. Sheila Mitchell motioned to proceed for default, seconded by Dr. Julie Frazier. All were in favor and the motion carried.

FINDING OF THE FACTS

Dr. Sheila Mitchell motioned to accept the Allegations of the Facts in the Notice of the Hearing and Charges and the evidence that has been shown; seconded by Dr. Robert Shutt. Judge Marion Wall requested a roll call vote be taken.

ROLL CALL VOTE

Julie Frazier	Aye
Sheila Mitchell	Aye
Robert Mitchell	Aye
Monica Franklin	Aye
Todd Bess	Aye
Robert Shutt	Aye

The motion carried. All were in favor.

CONCLUSION OF LAW

Dr. Julie Frazier motioned to accept the Allegations as stated in # 1 - 3; seconded by Dr. Sheila Mitchell.

ROLL CALL VOTE

Julie Frazier	Aye
Sheila Mitchell	Aye

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Robert Mitchell	Aye
Monica Franklin	Aye
Todd Bess	Aye
Robert Shutt	Aye

The motion passed.

Dr. Julie Frazier motioned to **revoke** Melissa L. Havely's registration with the Board of Pharmacy as a technician #14551 due to disciplinary reasoning; seconded by Mrs. Monica Franklin.

ROLL CALL VOTE

Julie Frazier	Aye
Sheila Mitchell	Aye
Robert Mitchell	Aye
Monica Franklin	Aye
Todd Bess	Aye
Robert Shutt	Aye

The motion passed by unanimous vote.

BOARD STATEMENT

Dr. Julie Frazier stated, it is the policy of the Board of Pharmacy to revoke a registration or license of any technician or pharmacist who has violated any Board law or rule; seconded by Dr. Todd Bess.

ROLL CALL VOTE

Julie Frazier	Aye
Sheila Mitchell	Aye
Robert Mitchell	Aye
Monica Franklin	Aye
Todd Bess	Aye
Robert Shutt	Aye

The motion passed.

The following document numbers will be continued on July 13, 2005: #069685; #069686, #069687.

CONSENT ORDERS

The following Consent Orders for Reinstatement were presented for approval:

PHARMACIST

TERM OF PROBATION

James Beck, DPH	Five (5) years probation
Troy Blevins, DPH	Five (5) years probation*
Jim Owens, DPH	Five (5) years probation
Leonard Parton, DPH	Five (5) years probation*
David Stripling	Five (5) years probation

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Dr. Julie Frazier motioned to **accept** the Consent Orders for Reinstatement; seconded by Dr. Robert Shutt. All were in favor and the motion carried.

*Dr. Sheila Mitchell motioned to **amend the term of probation for a period of ten (10) years** for Dr. Troy Blevins and Dr. Leonard Parton for record keeping purposes. Dr. Robert Mitchell seconded the motion. All were in favor and the motion carried.

KEVIN LEE BROOKS, DPH
2506 David Ross Drive
Columbia, TN 38401

STUART B. LESSENBERRY, DPH
439 Stonemeadow Road
Clarksville, TN 37043

NICHOLAS C. GRAYBEAL, DPH
620 Kentucky Avenue
Bristol, TN 37620

Chief Legal Counsel, Mrs. Alison Cleaves, presented Consent Orders for the indefinite suspension of the above referenced pharmacist's license due to chemical dependency. Dr. Sheila Mitchell motioned to **approve** the Consent Orders; seconded by Dr. Robert Mitchell. All were in favor and the motion carried.

FRED ROSS, DPH
5310 Kelly's Point Drive
Ooltewah, TN 37363

Mrs. Alison Cleaves, chief legal counsel, presented a Consent Order on behalf of Dr. Fred Ross who was in violation of T.C.A. §63-10-506 (a), whereas it is unlawful for any individual to engage in the practice of pharmacy unless currently licensed. Dr. Ross was working on an expired license from approximately June 30, 2003 - June 20, 2004. A civil penalty of \$1,100 was assessed. Dr. Robert Shutt motioned to **approve** the Consent Order; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

WAIVERS

CARLYLE JOHNSON, DPH
BEDCO VET PHARMACY
710 Madison Street
Shelbyville, TN 37160

Dr. Carlyle Johnson is requesting a waiver of Rule 1140-3-.14 (12) relevant to being the pharmacist-in-charge at more than one(1) pharmacy practice location. Dr. Johnson is currently the PIC at Riverside Medical Pharmacy, a mail out respiratory pharmacy and BedCoVet, a veterinary pharmacy. Both pharmacies are under the same roof, but separate, lockable entities. Dr. Sheila Mitchell motioned to **grant** the waiver request, seconded by Dr. Julie Frazier. All were in favor and the motion carried.

MARK RATHJEN, DPH
INGLES PHARMACY
7466 Oak Ridge Highway
Knoxville, TN 37931

Dr. Mark Rathjen is requesting approval of four (4) hours of live continuing education for his attendance at the Ingles Department Head Seminar relevant to Rule 1140-5-.01. The topics were not related to pharmacy education nor were they ACPE approved. Dr. Robert Mitchell motioned to **deny** the request; seconded by Dr. Todd Bess. All were in favor and the motion carried.

MARK A. DAVIS, DPH
PROFESSIONAL CARE SERVICES (PCS)
403 Commerce Street
Ripley, TN 38063

Dr. Mark Davis is requesting a waiver of Rule 1140-3-.14 (12) regarding being the pharmacist-in-charge at more than one (1) pharmacy practice site. Dr. Davis is currently the PIC at Dyersburg PCS Pharmacy and is requesting to be PIC at Ripley PCS. The closed-door pharmacies are located approximately eighteen miles apart. Dr. Sheila Mitchell motioned to **approve** the waiver; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

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JOHN P. HAWES, JR.
MEDCENTER, INC.
4607 N. Clark Avenue
Tampa, FL 33614

Director Kendall Lynch advised the Board at the March 15 - 16th, 2005 meeting, a waiver request of Rule 1140-3-.14 (12) was presented relevant to Dr. Robert Tucker being the pharmacist-in-charge at three (3) locations. The members expressed concern relevant to Rule 1140-3-.14 (13) which requires the designated PIC to be on duty in the pharmacy a minimum of 50% of the hours that the pharmacy is open but not more than 40 hours per week. The Board elected to defer action on this matter pending additional information. Dr. Lynch stated Medipharma Rx and Medcenter, Inc. are both located at the same physical address at 4607 N. Clark Avenue, Tampa, Florida. Medical Center Pharmacy is located at 4600 N. Habana Avenue, Tampa, Florida, which is approximately two (2) miles apart. Dr. Robert Mitchell motioned to **deny** the request; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

JERRY MOORE, DPH
DIRECTOR
PHARMACY PROFESSIONAL SERVICES & GOVERNMENT RELATIONS
WAL-MART
702 SW 8th Street
Bentonville, AR 72716-0230

Dr. Jerry Moore is requesting clarification and approval of Rule 1140-3-.07 relevant to a pharmacist being permitted one (1) temporary absence from the pharmacy for a period not to exceed one (1) hour per day. Dr. Moore is questioning whether the one (1) hour has to be taken all one time or can they be taken in two (2) thirty (30) minute intervals. Dr. Todd Bess motioned **Dr. Moore's request falls within the definition of the Rule**. Dr. Julie Frazier seconded the motion. All were in favor and the motion carried.

ANDREA LESCHAK, DPH
2-501 B CO
CME 477 Box 2248
APE AE 09165

Dr. Andrea Leschak is requesting a waiver of Rule 1140-5-.01 relevant to the fifteen (15) Live ACPE continuing education hours required for the renewal of her pharmacist license. Dr. Leschak's husband is an officer in the

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United States Army and is currently stationed in Germany. Dr. Robert Shutt motioned to **approve** the waiver request; seconded by Dr. Julie Frazier. All were in favor and the motion carried.

JOAN BARKER HALTON, DPH

904 Argyll Drive

Danville, KY 40422

Dr. Joan Halton is requesting a waiver of the NAPLEX, Jurisprudence Exam and Internship hours pursuant to Rule 1140-1-.07 (3) (c). Dr. Halton's license was in "expired" status in January, 1996 and she did not receive the Board's notice relevant to the rule changes in July, 1998. Dr. Julie Frazier motioned to **waive the Internship hours and NAPLEX but must complete the Jurisprudence Exam**. Dr. Robert Shutt seconded the motion. All were in favor and the motion carried.

ERIC W. HADLEY, DPH

4010 Brandywine Drive

Jonesboro, AR 72404

Dr. Eric Hadley is requesting a waiver of Rule 1140-5-.01 relevant to the fifteen (15) Live ACPE continuing education hours required for the renewal of his pharmacist license. Dr. Hadley provided proof of 37 ½ hours of CE's; of which seventeen and one-half (17 ½) were non-ACPE; twenty (20) were Live but only two (2) were ACPE. The eighteen (18) hours provided were accepted by the Arkansas Board of Pharmacy as live hours. After board discussion, Dr. Robert Mitchell motioned to **accept the live continuing education hours from Arkansas**; seconded by Dr. Julie Frazier. All were in favor and the motion carried.

**THOMAS RADFORD RICHARDSON, DPH - REQUEST FOR REINSTATEMENT OF LICENSE
JACKSON, TN 38305**

Dr. Thomas Radford Richardson appeared before the Board to request the reinstatement of his pharmacist license. Advocating on his behalf was Dr. Vance Argo with the Tennessee Pharmacist Recovery Network. Director Kendall Lynch stated in March 2004, Dr. Richardson signed a Consent Order admitting to the theft of Dexedrine tablets from the pharmacy where he was completing his pharmacy internship in 2003 and was placed on three (3) years probation with the Board. In June 2004, Dr. Richardson forged prescriptions for himself and family members for Adderall; surrendered his license and entered Cresthaven for an evaluation. In November, 2004, Dr. Richardson went to COPAC in Mississippi and was discharged on February 14, 2005. Dr.

Richardson stated on May 15, 2005 he completed his 90/90 meetings. Dr. Vance Argo stated Dr. Richardson was in compliance with the TPRN requirements. After board discussion, Dr. Robert Shutt motioned:

1. Respondent does hereby agree to the reinstatement of license number **13059** with the following probationary conditions. Said probation shall remain in effect for a period of five (5) years, from **May 17 - 18, 2005 to May 17 -18, 2010.**
 - (a) The Respondent shall completely abstain from the consumption of alcohol or any other drugs, except as specified in (b).
 - (b) The Respondent shall be able to consume legend drugs or controlled substances prescribed by the Respondent's primary physician,

David Larsen, MD and Karen Wyatt, N.P., except in the case of an emergency or upon a proper referral from the Respondent's primary physician. The Respondent shall immediately notify the Board office in writing of the name of the Respondent's primary physician each time the Respondent changes primary physicians;
 - (c) The Respondent shall not obtain or attempt to obtain any prescriptions in the Respondent's name for any legend drugs, controlled substances or devices containing same from a physician other than the Respondent's primary physician or from any other health care provider, such as a nurse practitioner, physician's assistant or psychiatrist;
 - (d) The Respondent shall destroy any unused controlled substances prescribed under the provisions of subsection (b) no later than thirty (30) days following the completion of the prescribed course of treatment;
 - (e) The Respondent shall report to the Board, in writing, the ingestion of any and all legend drugs or controlled substances (a copy of the prescription will satisfy the requirement);

- (f) The Respondent shall submit to random sampling of urine, blood or bodily tissues for the presence of drugs and alcohol, at the Respondent's own expense, by agents of the Board, such as the Tennessee Pharmacists Recovery Network for as long as the Respondent has an active license. In the event that the sampling indicates the presence of drugs for which the Respondent does not have a valid prescription or the sampling indicates the presence of alcohol, then formal disciplinary charges may be brought against the Respondent which could result in the revocation of the Respondent's remaining term of probation or the suspension or revocation of the Respondent's license to engage in the practice of pharmacy. Prior to such disciplinary charges being heard by the Board, the Respondent's license may be summarily suspended;
- (g) The Respondent shall comply with all of the terms and conditions of the extended aftercare contract he or she entered into with Tennessee Pharmacists Recovery Network. Respondent shall return a copy of said contract with this Consent Order to the Board office;
- (h) The Respondent shall not serve as pharmacist-in-charge for a period of three (3) years, however, after a period of two (2) years, the Respondent may petition the Board for a modification of this Consent Order to remove the restrictions upon a show of good cause. The Respondent shall not work as a "floater" for a period of three (3) years, meaning that the Respondent shall not work at more than one (1) pharmacy location at the same time without the permission of the Board;
- (i) If the license has been inactive, delinquent, suspended or revoked:
 - (i) **Less than one (1) year, the pharmacist shall:**
 - I. Provide written notice requesting an active license;
 - II. Satisfy all past due continuing pharmaceutical education; and
 - III. Pay all cumulative license renewal fees and any applicable penalties.

Dr. Julie Frazier seconded the motion. Dr. Robert Mitchell requested to modify the primary care physician for the nurse practitioner in the Consent Order. All were in favor and the motion carried.

KIMBERLY COBBLE HERMAN - PHARMACY TECHNICIAN REGISTRATION MORRISTOWN, TN

Director Kendall Lynch advised in November, 2004, the Board denied Mrs. Kimberly Herman's technician registration application due to the admission of diversion of controlled substances. Mrs. Alison Cleaves noted if Mrs. Herman would seek some type of counseling, the Board may reconsider. In January, 2005, letters of support were furnished on Mrs. Herman's behalf. At the March, 2005 meeting, President Reggie Dilliard deferred the matter until the May 17 - 18, 2005 board meeting. Dr. Julie Frazier, Dr. Todd Bess and Dr. Reggie Dilliard will establish some guidelines or avenues for technicians. Ms. Herman stated she has learned from attending counseling sessions. After board discussion, Dr. Julie Frazier motioned to **grant the registration with five (5) years probationary period** to include the following terms and conditions:

1. To inform the PIC at each pharmacy where she is employed that she is on probation with the Board;
2. Shall not take controlled substance prescriptions over the telephone;
3. Shall not fill any prescriptions for herself or family members;
4. Shall notify the Board office of any change in PIC who supervises registrant and/or place of employment;
5. Shall enter into a contract with the PIC at place of employment and abide by the terms of the contract. A copy shall be incorporated into the Consent Order for Probation.
6. Shall abide by all laws and rules relating to the practice of pharmacy.

Dr. Robert Shutt seconded the motion. Dr. Sheila Mitchell made a friendly amendment to the motion whereas legal counsel shall word the Consent Order accordingly. All were in favor and the motion carried.

JANET H. HICKS, DPH – REQUEST FOR REINSTATEMENT OF LICENSE KNOXVILLE, TN

Dr. Janet Hicks appeared before the Board to request the reinstatement of her pharmacist license along with advocates, Mr. Eric Amburgey with Cornerstone and Dr. Edwin Bills with TPRN. Director Kendall Lynch stated Dr. Hicks entered Talbott in Atlanta in April, 1995 for chemical dependency and the license was reinstated with

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a term of probation for five (5) years with all stayed. In December, 1996, a urine screen tested positive and in May, 1997, Dr. Hicks voluntarily surrendered her license for chemical dependency. During this time, Dr. Hicks left Talbott against medical advice; entered an out -patient program and entered into a voluntary contract with TPRN. In January, 2002, Dr. Hicks' license was reinstated with a probationary period of five (5) years. In May, 2004, Dr. Hicks relapsed, signed a Consent Order and surrendered her license. Mr. Eric Amburgey stated he hopes the Board will consider reinstatement as it is the third time for Dr. Janet Hicks. Dr. Edwin Bills advocates on Dr. Hicks' behalf as she is compliant with the TPRN regulations. After Board discussion, Dr. Julie Frazier motioned:

1. Respondent does hereby agree to the reinstatement of license number **5637** with the following probationary conditions. Said probation shall remain in effect for a period of fifteen (15) years, from **May 17 - 18, 2005 to May 17 - 18, 2020.**
 - (a) The Respondent shall completely abstain from the consumption of alcohol or any other drugs, except as specified in (b).
 - (b) The Respondent shall be able to consume legend drugs or controlled substances prescribed by the Respondent's primary physician, Gary O'Shaughnessy, MD, except in the case of an emergency or upon a proper referral from the Respondent's primary physician. The Respondent shall immediately notify the Board office in writing of the name of the Respondent's primary physician each time the Respondent changes primary physicians;
 - (c) The Respondent shall not obtain or attempt to obtain any prescriptions in the Respondent's name for any legend drugs, controlled substances or devices containing same from a physician other than the Respondent's primary physician or from any other health care provider, such as a nurse practitioner, physician's assistant or psychiatrist;
 - (d) The Respondent shall destroy any unused controlled substances prescribed under the provisions of subsection (b) no later than thirty (30) days following the completion of the prescribed course of treatment;

- (e) The Respondent shall report to the Board, in writing, the ingestion of any and all legend drugs or controlled substances (a copy of the prescription will satisfy the requirement);
- (f) The Respondent shall submit to random sampling of urine, blood or bodily tissues for the presence of drugs and alcohol, at the Respondent's own expense, by agents of the Board, such as the Tennessee Pharmacists Recovery Network for as long as the Respondent has an active license. In the event that the sampling indicates the presence of drugs for which the Respondent does not have a valid prescription or the sampling indicates the presence of alcohol, then formal disciplinary charges may be brought against the Respondent which could result in the revocation of the Respondent's remaining term of probation or the suspension or revocation of the Respondent's license to engage in the practice of pharmacy. Prior to such disciplinary charges being heard by the Board, the Respondent's license may be summarily suspended;
- (g) The Respondent shall comply with all of the terms and conditions of the extended aftercare contract he or she entered into with Tennessee Pharmacists Recovery Network. Respondent shall return a copy of said contract with this Consent Order to the Board office;
- (h) The Respondent shall not serve as pharmacist-in-charge for a period of three (3) years, however, after a period of two (2) years, the Respondent may petition the Board for a modification of this Consent Order to remove the restrictions upon a show of good cause. The Respondent shall not work as a "floater" for a period of three (3) years, meaning that the Respondent shall not work at more than one (1) pharmacy location at the same time without the permission of the Board;
- (i) If the license has been inactive, delinquent, suspended or revoked:
 - (ii) One (1) year to not more than five (5) consecutive years, the pharmacist shall:**
 - I. Provide written notice requesting an active license;
 - II. Satisfy all past due continuing pharmaceutical education;
 - III. Successfully complete the jurisprudence examination;
 - IV. Pay all cumulative license renewal fees and any applicable penalties;

- V. Complete a period of pharmacy internship in Tennessee.
 - A. From one (1) year to not more than three (3) consecutive years, one hundred sixty (160) hours within ninety (90) consecutive days;

Dr. Robert Mitchell seconded the motion. All were in favor and the motion carried.

ERIC COURTNEY – REQUEST TO ALLOW TO REGISTER AS A PHARMACY TECHNICIAN NASHVILLE, TN

Director Kendall Lynch advised the board members that Eric Courtney was convicted of a Class D felony in March, 2002 for identity theft, and was sentenced to two (2) years probation. On October 3, 2004, Mr. Courtney was unconditionally discharged from probation. Mr. Courtney stated he purchased a vehicle and needed a co-signer. Mr. Courtney stated he gave the dealer cash for the down payment and he was unaware the co-signer had an identity theft charge. Mr. Courtney is currently employed at Vanderbilt University Medical Center and is interested in the field of medicine. After board discussion, Dr. Sheila Mitchell motioned to deny the registration for approval. The motion died for the lack of a second. Dr. Sheila Mitchell motioned to **deny** the request; seconded by Dr. Robert Shutt. There were five (5) ayes and one (1) nay. The motion passes by majority vote.

LEGAL REPORT/COMPLAINTS

1. Case No.: L05-RHR-RBS-200005803

Complainant alleges that the Respondent violated the terms of her probation with the Board by consuming Ultram, yet not having a prescription for Ultram on file with the Board office as provided in Consent Order with her probationary terms. Respondent also tested positive for Amphetamine. Respondent states that she may have accidentally taken her child's prescription for Amphetamine. Prescription records indicate that the child does have a prescription for Amphetamine. Respondent also tested positive for Hydrocodone which the Respondent states is because of a cough syrup she took. Respondent also tested positive for Propoxyphene, for which the Respondent had a prescription.

Recommendation: Consent Order extending the Respondent's term of probation for two (2) years from 2006 to 2008 and a Letter of Warning

Dr. Julie Frazier suggested including a provision whereas respondent shall not fill any prescriptions for herself or her family. Dr. Frazier motioned to suspend the license until the next board meeting for violating her Consent Order. The motion died for the lack of a second. Dr. Sheila Mitchell motioned to **accept counsel's recommendation**; seconded by Dr. Robert Shutt. All were in favor and the motion carried.

2. Case No.: L03-PRH-RBS-200315714

The complaint alleges that the Respondent, licensed distributor, is involved in the distribution of counterfeit Epogen. Respondent's withdrew its renewal application and allow its license to expire.

Recommendation: Closure

Dr. Robert Shutt motioned to **accept counsel's recommendation**; seconded by Dr. Robert Mitchell. All were in favor and the motion carried.

3. Case No.: L05-PHR-RBS-200419503

The anonymous complaint alleges that the Respondent, licensed pharmacist, was making his own methamphetamine. An investigation into this matter did not reveal any evidence of the Respondent producing methamphetamine or any drug use by the Respondent. An audit of the pharmacy where the Respondent is employed did not show any shortages.

Recommendation: Dismissal

Dr. Robert Mitchell motioned to **accept counsel's recommendation**; seconded by Dr. Julie Frazier. All were in favor and the motion carried

4. Case No.: L05-PHR-RBS-200500440

The Complainant, a physician, alleges that he wrote three (3) prescriptions for Concerta that were written in the same day with instructions to be filled at later dates. The patient presented the three (3) prescriptions to the pharmacy; one (1) prescription was filled and the other two (2) prescriptions were retained by the pharmacy to be kept on file. When the patient called a month later to get another prescription filled, the pharmacist told the patient that the prescriptions were not on file. The pharmacist states that the other two (2) prescriptions were misfiled the "hold" box under the incorrect alphabetical heading. Pharmacist states that the two (2) prescriptions were mailed back to the physician with a letter of explanation.

Prior complaints:

DPh: None

Pharmacy: None

Recommendation: Dismissal

Dr. Robert Shutt motioned to **accept counsel's recommendation**; seconded by Dr. Robert Mitchell. All were in favor and the motion carried.

5. Case No.: L05-PHR-RBS-200500658

The complaint alleges that during a routine periodic inspection on February 28, 2005, the investigator noted that the pharmacist on duty's license expired on November 30, 2004. The Respondent states that she mailed in her renewal but mistakenly only included fifteen (15) hours of continuing education; Respondent is licensed in two (2) states and thought Tennessee only required fifteen (15) hours. Respondent did obtain thirty (30) hours of continuing education, but mistakenly submitted only fifteen (15) hours to the Board. Board records show that the Respondent did submit her renewal with fees on November 29, 2004. Respondent did not receive a letter from the Board office advising her that she did not submit enough continuing education hours until two (2) months later. When the Respondent received the letter, she mailed in her additional continuing education hours.

Dr. Julie Frazier motioned to **issue a Letter of Instruction**; seconded by Dr. Todd Bess. All were in favor and the motion carried

6. Case No.: L05-PHR-RBS-200500659

The complaint alleges that during the course of a routine periodic inspection, of a parenteral pharmacy, the investigator noted legend drugs in the office area outside of the pharmacy. This pharmacy formerly shared space with a community pharmacy that closed in July, 2004. Upon inspection, the pharmacy and the clean room inside the building were unlocked and unattended by a pharmacist. The Respondent states that since the facility is a home infusion office and not open to the public, a pharmacist on duty was not required at all times. Respondent states that it is a closed facility that is not accessible to anyone other than him and his wife, who is a registered nurse. Respondent states that he has made arrangements to lock up all of the prescription items during his physical absence from the pharmacy. Rule 1140-1-.12(7) states that

Previous complaints:

DPh: None

Pharmacy: None

Recommendation: Consent Order with \$250.00 civil penalty

Dr. Julie Frazier motioned to **accept counsel's recommendation**; seconded by Dr. Robert Mitchell. All were in favor and the motion carried

7. Case No.: L05-PHR-RBS-200500783

The anonymous Complainant alleges that the Respondent has been engaging in gross misconduct by taking drugs from the pharmacy inventory, but Complainant also states that he/she is not alleging that the Respondent has taken any controlled substances. Complainant also alleges abuse and discrimination issues. Our investigator was contacted by the Complainant, a technician at the pharmacy, who indicated that she was recently reprimanded for medication errors that were the Respondent's fault and that she has observed the Respondent taking Celebrex and Bextra from the pharmacy without paying for them. Our investigator contacted the other pharmacist in the pharmacy who indicated that he has seen the Respondent taking Vioxx but that a prescription was on file for the Respondent and the Respondent paid for the medication.

Previous complaints: None

Recommendation: Dismissal

Mrs. Alison Cleaves **deferred the complaint till the board meeting in July, 2005.**

8. Case No.: L05-PHR-RBS-200500728

The Complainant alleges that the Respondent pharmacy was overpaid and refuses to reimburse the Complainant. The pharmacist responded that the prescriptions were for the Complainant's spouse who was in a nursing home. The pharmacy originally billed the prescriptions directly to the patient before they found out the patient had insurance. Upon discovering the insurance, the pharmacy then billed the claims. Respondent states that if any refund is due to the Complainant, then that should be reclaimed from the pharmacy and then refunded by the insurance company since the insurance company made the payments and allowed any overcharge.

Previous complaints: None

Recommendation: Dismissal

Dr. Robert Shutt motioned to **accept counsel's recommendation**; seconded by Dr. Todd Bess. All were in favor and the motion carried

9. Case No.: L05-PHR-RBS-200501015

The Complainant, a business manager of an outpatient surgery center, alleges that multiple prescriptions were filled and refilled at multiple pharmacies in the same chain for controlled substances without having a DEA registration number on the prescriptions and that the pharmacist guessed at the physician's name on the prescription. Complainant alleges that all of this occurred over a six (6) month period of time when a verifying phone call could have resolved the matter. Our investigator went to the pharmacies that filled the prescriptions and obtained the printouts of the prescriptions that were still in the files. The investigator determined that the prescriptions were forgeries that were difficult to discern as forgeries. Also the amount on the forged prescriptions were so nominal that suspicions were not raised. It appears that the forgeries can be traced to an employee of the surgery center who stole the prescription blanks and forged them for her own personal use. This employee phoned in the other prescriptions using her maiden name to verify the telephoned prescriptions.

Recommendation: Dismissal

Dr. Robert Shutt motioned to **accept counsel's recommendation**; seconded by Dr. Julie Frazier. All were in favor and the motion carried

10. Case No.: L05-PHR-RBS-200500657

The complaint alleges that during a routine compliance inspection conducted on February 16, 2005, our pharmacy investigator observed three (3) pharmacy technicians working without being registered with the Board. The pharmacist in charge responded that he recalled an update meeting about registering technicians and that he would be receiving a form in the mail about registering technicians. Since he never received the form, he forgot about the registration process. PIC has submitted applications for all technicians working in the pharmacy.

Previous complaints:

DPh: None

Pharmacy: None

Recommendation: Consent Order with \$300.00 civil penalty to PIC

Dr. Sheila Mitchell motioned to **accept counsel's recommendation**; seconded by Dr. Robert Mitchell. All were in favor and the motion carried.

11. Case No.: L05-PHR-RBS-200500602

The Complainant alleges that the Respondent pharmacy misfiled her prescription for Topamax, 322 tablets, ninety (90) day supply with only 111 tablets. Complainant called the pharmacy about the incorrect amount and they informed her that they would overnight the balance to her, which was not done. When the Complainant called back, she was told that she was given the correct amount. PIC admits the miscalculation and the reason for the miscalculation was that the directions were to step up the dosage each week – one (1) tablet at bedtime for one (1) week, then two (2) tablets at bedtime for one week until a total of four (4) tablets will be taken at bedtime. Prescription was filled with 111 tablets on January 3, 2005. Respondent then filled a quantity of 294 tablets on February 21, 2005. On February 22, 2005, pharmacy overnighted a ten (10) day supply to the Complainant to tide her over until the order arrived at no cost to the Complainant. Respondent also issued the

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Complainant an \$80.00 credit and corrected her prescriptions. Respondent also admitted that the series of phone calls from the Respondent could have been handled better.

Previous complaints:

DPh: None

Pharmacy: (11/04; illegal substitution, dismissed)

Recommendation: Letter of Instruction

Dr. Julie Frazier motioned to **accept counsel's recommendation**; seconded by Dr. Robert Shutt. All were in favor and the motion carried.

12. Case No.: L05-PHR-RBS-200500599

The Complainant alleges that the Respondent pharmacy sent medication that he did not order, that the pharmacy has lost several of his prescriptions and that the pharmacy has sent him another person's medication and bills. The PIC states that in 2001 the Complainant was charged in error. Pharmacy records reflect that the pharmacy received seven (7) prescriptions for the Complainant in September, 2004. Six (6) of the prescriptions were filled, but one (1) of these prescriptions for Actonel was rejected because it was refilled too soon and a letter was sent to the Complainant telling him that the prescription would be filled on December 12, 2004; the prescription was shipped on December 17, 2004. On January 21, 2005, the Complainant called the Respondent stating that he had not requested that the Actonel be filed and that he wanted the pharmacy to give him a credit. Although the pharmacy denied the Complainant's requests for a credit, they granted the credit to him on March 26, 2005.

Prior complaints: Pharmacy: (1/2005; misfill; LOW)

Recommendation: Dismissal

Dr. Robert Shutt motioned to **accept counsel's recommendation**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

13. Case No.: L05-PHR-RBS-200500559

The Complainant alleges that the pharmacist on duty did not appear to know what she was doing, that it took two (2) hours to fill her prescriptions and that she mislabeled the bottles. The pharmacist responded that she opened up the pharmacy late because of a car accident on the way to work. The rain caused the pharmacy's computer satellite to go down, which delayed the processing of prescriptions. When the Complainant went outside to wait, he saw other customers going in and out and mistakenly assumed that they were being serviced before him, which led to a confrontation between the pharmacist and Complainant. However, the Respondent admitted that she placed the incorrect label on the Complainant's bottle; both the Complainant and spouse had a prescription for Loratadine 10 mg and an extra label was printed for the spouse and mistakenly attached to the Complainant's bottle. The medication and the directions were correct, but the bottle did have the wrong patient name.

Prior complaints: DPh: (8/2001, overcharge in nursing home, dismiss)

Pharmacy: None

Recommendation: Letter of Instruction

Mrs. Monica Franklin motioned to **accept counsel's recommendation**; seconded by Dr. Todd Bess. All were in favor and the motion carried.

14. Case No.: L05-PHR-RBS-200500464

The Complainant alleges that the Respondent filled her prescription for Mobic with a brand name drug instead of a generic when the prescription noted that a generic could be substituted; this resulted in an increase in her co-pay from \$20.00 to \$80.00. Complainant further alleges that the Respondent did not notify her of the increase in her co-pay before the brand name drug was shipped and that the Respondent would not refund the Complainant the difference between the two co-pays. The PIC responded that the prescription was filled with the brand name drug since there is no generic for Mobic which increased the Respondent's co-pay.

Previous complaints:

DPH: None

Pharmacy: None

Recommendation: Dismissal

Dr. Robert Shutt motioned to **accept counsel's recommendation**; seconded by Dr. Julie Frazier. All were in favor and the motion carried.

15. Case No.: L05-PHR-RBS-200418764

The Complainant alleges that the Respondent pharmacy allowed another person to pick up her prescriptions for Soma and Seroquel, who was not authorized by the Complainant. Complainant states that when she asked who picked up her prescriptions, the pharmacist told her he did not know and to file a police report; Complainant claims that the pharmacist was rude and told her he would not fill her prescriptions anymore.

Pharmacist responded that the Complainant had a history of claiming that other people were picking up her medication and that she had been shorted medication. The pharmacist offered the Complainant the choice of a positive photo identification when picking up medication, but the Complainant refused; the pharmacy's policy when picking up medication is to request name, address and date of birth. Pharmacist also offered to review the video tape made inside of the store once the Complainant filed a police report; however, Complainant refused to file a police report because she thought her relative picked up her medication and she did not want to get them in trouble.

Recommendation: Dismissal

Mrs. Monica Franklin motioned to **accept counsel's recommendation**; seconded by Dr. Robert Mitchell. All were in favor and the motion carried.

16. Case No.: L05-PHR-RBS-200500941

The Complainant is the daughter-in-law of an expired nursing home patient who alleges that the pharmacy continues to bill for drugs that were not administered. The pharmacist states that after reviewing the patient's case, they wrote to the Complainant and told her to disregard the bill and that there was no outstanding balance.

Prior complaints:

DPH: None

Pharmacy: None

Recommendation: Dismissal

Dr. Sheila Mitchell motioned to **accept counsel's recommendation**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

17. Case No.: L05-PHR-RBS-200501362

Complainant alleges that the Respondent, registered technician, was observed on CCTV tape removing controlled substances from the pharmacy. Respondent also signed a written statement admitting to the theft of twenty (20) to twenty-five (25) tablets a week of various strengths of Hydrocodone since approximately 2000 and taking a few Alprazolam. Respondent signed a statement agreeing to reimburse the pharmacy approximately \$3,032.00 from losses.

Recommendation: Formal Hearing

Mrs. Monica Franklin motioned to **accept counsel's recommendation**; seconded by Dr. Julie Frazier. All were in favor and the motion carried.

18. Case No.: L05-PHR-RBS-200501362

Complainant alleges that the Respondent, registered technician, was observed on CCTV tape removing two (2) Ibuprofen 400mg and then consuming them; Respondent did not have a prescription for the Ibuprofen. Respondent also admitted to taking about fourteen (14) tablets of Amoxicillin and some over-the-counter items (soft drinks, snacks) without paying for them.

Recommendation: Consent Order with a \$200.00 civil penalty

Dr. Julie Frazier motioned to **accept counsel's recommendation**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

19. Case No.: L05-PHR-RBS-200419652

Complaint alleges that the Respondent was filling prescriptions written by a doctor whose DEA registration has been surrendered. During the course of the audit, a shortage of 146 x 16 ounce of Hydrocodone Cough Syrup was noted. Respondent also entered a treatment facility. The assessment showed "subtle indications of substance abuse and/or chemical dependence". Inpatient treatment was recommended but the Respondent refused. Although their urine screen was negative upon admission, the Respondent refused a hair sample and the Respondent exhibited physical withdrawal signs on the second day of his evaluation which improved upon being administered Tranxene. Respondent also stated to the investigator that he was taking Diazepam for Bell's Palsy; however, there were no prescription records for Diazepam on file at the pharmacy.

Prior complaints: DPh: None

Pharmacy: None

Recommendation: Formal Hearing

Dr. Robert Mitchell motioned to **accept counsel's recommendation**; seconded by Dr. Todd Bess. All were in favor and the motion carried.

20. Case No.: L05-PHR-RBS-200418223

Respondent is currently on a five (5) year term of probation with the Board for chemical impairment; Respondent license was reinstated on July 14, 2004. Respondent recently relapsed by taking a Hydrocodone pill. Respondent put himself back into treatment for forty-five (45) days and has completed his treatment.

Recommendation: Consent Order with 45 day suspension.

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Dr. Sheila Mitchell motioned to **accept counsel's recommendation and to give him credit for time served**; seconded by Dr. Robert Mitchell. All were in favor and the motion carried

21. Case No.: L04-PHR-RBS-200419336

Complaint alleges that the Respondent is impaired. Respondent denied the impairment, but agreed to go for a substance abuse evaluation. Although the evaluation recommended additional treatment and stated that the Respondent was in "profound denial" of a problem, the Respondent's urine screen was negative. Respondent also denied self-medication, but stated that he has had several seizures because of another medical problem; Respondent has undergone surgery for a brain tumor. Against medical advice, the Respondent left treatment. An investigation into this matter noted some discrepancies, such as a shortage of 519 tablets of Alprazolam and a surplus of 1897 tablets of Hydrocodone/APAP. The investigator interviewed the Respondent and the Respondent could not account for the discrepancies. Respondent did not exhibit any aberrant behavior during the investigation. Investigator left his card with the pharmacy technicians there and asked them to contact him if they have seen any behavior from the Respondent indicating drug use; investigator did not hear back from any of the technicians.

Recommendation: Letter of Warning about discrepancies

Dr. Sheila Mitchell motioned to **accept counsel's recommendation**; seconded by Dr. Robert Mitchell. All were in favor and the motion carried.

ADJOURNMENT

Dr. Julie Frazier motioned to adjourn the Board of Pharmacy meeting on Tuesday, May 17, 2005 at 4:25 p.m.

CDT; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

RECONVENED

The Tennessee Board of Pharmacy reconvened on Wednesday, May 18, 2005 at 9:00 a.m. in Room 160 of the Davy Crockett Tower. A quorum of the members being present, President Reggie Dilliard called the meeting to order.

KEVIN BROOKS, DPH – REQUEST FOR REINSTATEMENT OF LICENSE COLUMBIA, TN

Dr. Kevin Brooks appeared before the Board to request the reinstatement of his pharmacist license. Advocating on his behalf were Dr. Cliff Weiss, Dr. John Crow and Dr. Randall Jean with TPRN. Director Kendall Lynch stated in August, 2002, Dr. Brooks admitted to be addicted to Hydrocodone and went to an out-patient program. Dr. Brooks was referred to TPRN and later to Charter. Dr. Brooks' license was reinstated in January, 2003. In July, 2004, a urine screen tested positive for Hydrocodone and Soma and the license was placed in a revoked status. Dr. Brooks was discharged in February, 2005, and has been attending meetings

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each day. Advocate, Dr. Cliff Weiss stated he supports Dr. Brooks. Dr. Randall Jean stated that the TPRN program work together and supports one another. Dr. Brooks has a supportive wife as well as his parents.

After board discussion, Dr. Sheila Mitchell motioned:

1. Respondent does hereby agree to the reinstatement of license number **11666** with the following probationary conditions. Said probation shall remain in effect for a period often (10) years, from **May 17 - 18, 2005 to May 17 - 18, 2015.**
 - (a) The Respondent shall completely abstain from the consumption of alcohol or any other drugs, except as specified in (b).
 - (b) The Respondent shall be able to consume legend drugs or controlled substances prescribed by the Respondent's primary physician, Halford Harper, MD, except in the case of an emergency or upon a proper referral from the Respondent's primary physician. The Respondent shall immediately notify the Board office in writing of the name of the Respondent's primary physician each time the Respondent changes primary physicians;
 - (c) The Respondent shall not obtain or attempt to obtain any prescriptions in the Respondent's name for any legend drugs, controlled substances or devices containing same from a physician other than the Respondent's primary physician or from any other health care provider, such as a nurse practitioner, physician's assistant or psychiatrist;
 - (d) The Respondent shall destroy any unused controlled substances prescribed under the provisions of subsection (b) no later than thirty (30) days following the completion of the prescribed course of treatment;
 - (e) The Respondent shall report to the Board, in writing, the ingestion of any and all legend drugs or controlled substances (a copy of the prescription will satisfy the requirement);

- (f) The Respondent shall submit to random sampling of urine, blood or bodily tissues for the presence of drugs and alcohol, at the Respondent's own expense, by agents of the Board, such as the Tennessee Pharmacists Recovery Network for as long as the Respondent has an active license. In the event that the sampling indicates the presence of drugs for which the Respondent does not have a valid prescription or the sampling indicates the presence of alcohol, then formal disciplinary charges may be brought against the Respondent which could result in the revocation of the Respondent's remaining term of probation or the suspension or revocation of the Respondent's license to engage in the practice of pharmacy. Prior to such disciplinary charges being heard by the Board, the Respondent's license may be summarily suspended;
- (g) The Respondent shall comply with all of the terms and conditions of the extended aftercare contract he or she entered into with Tennessee Pharmacists Recovery Network. Respondent shall return a copy of said contract with this Consent Order to the Board office;
- (h) The Respondent shall not serve as pharmacist-in-charge for a period of three (3) years, however, after a period of two (2) years, the Respondent may petition the Board for a modification of this Consent Order to remove the restrictions upon a show of good cause. The Respondent shall not work as a "floater" for a period of three (3) years, meaning that the Respondent shall not work at more than one (1) pharmacy location at the same time without the permission of the Board;
- (i) If the license has been inactive, delinquent, suspended or revoked:
 - (ii) **One (1) year to not more than five (5) consecutive years, the pharmacist shall:**
 - I. Provide written notice requesting an active license;
 - II. Satisfy all past due continuing pharmaceutical education;
 - III. Pay all cumulative license renewal fees and any applicable penalties;

Dr. Julie Frazier seconded the motion. There were five (5) ayes, one (1) nay. The motion passed.

**MARGARET BEAULIEU, DPH – REQUEST FOR REINSTATEMENT OF LICENSE
KINGSPORT, TN**

Dr. Margaret Beaulieu appeared before the board with advocates, Dr. John Bonnell with TPRN and Mr. Eric Amburgey with Cornerstone, to request the reinstatement of her pharmacist license. Director Kendall Lynch stated in August, 2001, he received a telephone call stating an inventory of the pharmacy revealed a shortage of Dilaudid and MS Contin. Dr. Beaulieu went for an evaluation and was released on an out-patient program and additional treatment was recommended. In September, 2001 Dr. Beaulieu decided not to pursue treatment and surrendered her pharmacist license. Dr. John Bonnell stated Dr. Beaulieu went to Cornerstone for an evaluation and it was recommended that she stay a while even though she had almost three one-half (3½) years of sobriety. Dr. Bonnell stated Dr. Beaulieu is working the twelve step program and assists others with their twelve steps of recovery and feels confident for her to return to the practice of pharmacy. Mr. Eric Amburgey noted Dr. Beaulieu has complete advocacy from Cornerstone. After Board discussion, Dr. Julie Frazier motioned:

1. Respondent does hereby agree to the reinstatement of license number **11623** with the following probationary conditions. Said probation shall remain in effect for a period often (5) five years, from **May 17 - 18, 2005 to May 17 - 18, 2010.**
 - (a) The Respondent shall completely abstain from the consumption of alcohol or any other drugs, except as specified in (b).
 - (b) The Respondent shall be able to consume legend drugs or controlled substances prescribed by the Respondent's primary physician, John Hollingworth, MD, except in the case of an emergency or upon a proper referral from the Respondent's primary physician. The Respondent shall immediately notify the Board office in writing of the name of the Respondent's primary physician each time the Respondent changes primary physicians;
 - (c) The Respondent shall not obtain or attempt to obtain any prescriptions in the Respondent's name for any legend drugs, controlled substances or devices containing same from a physician

other than the Respondent's primary physician or from any other health care provider, such as a nurse practitioner, physician's assistant or psychiatrist;

- (d) The Respondent shall destroy any unused controlled substances prescribed under the provisions of subsection (b) no later than thirty (30) days following the completion of the prescribed course of treatment;
- (e) The Respondent shall report to the Board, in writing, the ingestion of any and all legend drugs or controlled substances (a copy of the prescription will satisfy the requirement);
- (f) The Respondent shall submit to random sampling of urine, blood or bodily tissues for the presence of drugs and alcohol, at the Respondent's own expense, by agents of the Board, such as the Tennessee Pharmacists Recovery Network for as long as the Respondent has an active license. In the event that the sampling indicates the presence of drugs for which the Respondent does not have a valid prescription or the sampling indicates the presence of alcohol, then formal disciplinary charges may be brought against the Respondent which could result in the revocation of the Respondent's remaining term of probation or the suspension or revocation of the Respondent's license to engage in the practice of pharmacy. Prior to such disciplinary charges being heard by the Board, the Respondent's license may be summarily suspended;
- (g) The Respondent shall comply with all of the terms and conditions of the extended aftercare contract he or she entered into with Tennessee Pharmacists Recovery Network. Respondent shall return a copy of said contract with this Consent Order to the Board office;
- (h) The Respondent shall not serve as pharmacist-in-charge for a period of three (3) years, however, after a period of two (2) years, the Respondent may petition the Board for a modification of this Consent Order to remove the restrictions upon a show of good cause. The Respondent shall not work as a "floater" for a period of three (3) years, meaning that the Respondent shall not

work at more than one (1) pharmacy location at the same time without the permission of the Board;

(ii) One (1) year to not more than five (5) consecutive years, the pharmacist shall:

- I. Provide written notice requesting an active license;
- II. Satisfy all past due continuing pharmaceutical education;
- III. Successfully complete the jurisprudence examination;
- IV. Pay all cumulative license renewal fees and any applicable penalties;
- V. Complete a period of pharmacy internship in Tennessee.

B. For more than three (3) consecutive years but not more than five (5) consecutive years, three hundred twenty (320) hours within one hundred eighty (180) consecutive days.

Dr. Robert Mitchell seconded the motion. All were in favor and the motion carried.

**REPRESENTATIVE NATHAN VAUGHN
KINGSPORT, TENNESSEE
DISTRICT 2 - SULLIVAN COUNTY**

Representative Nathan Vaughn appeared before the Board to discuss issues relevant to the “After Hours Drug Provision” under Board of Pharmacy Rule 1140-4-.14 (b) in an institutional setting. Representative Vaughn expressed concern with the amount of time that an institution may be without having a pharmacist on duty, especially during the Thanksgiving and Christmas holidays. Representative Vaughn stated liability issues are involved as the nursing staff is not trained or competent to perform pharmacist's duties. The Board suggested the institution should establish policy and procedure guidelines for when the pharmacy is closed; conduct in-service training to take care of the patient in a very secure and safe environment, and for the pharmacist on call to establish and maintain a vigorous training procedure. The Board also noted that it has provided the ground rules with the ultimate goal of protecting the patient and to give the PIC the direction.

Representative Vaughn stated during the 103rd General Assembly, Public Chapter #407 was passed which allowed insurance companies to reimburse pharmacist for their counseling.

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Representative Vaughn will discuss issues with JACHO and the Board of Nursing relevant to introducing some changes in the current legislation. Representative Vaughn thanked the Board for their time and the Board expressed their appreciation for the accomplishments he has made for the State of Tennessee.

BOARD OF PHARMACY ON-LINE LICENSE RENEWALS

Mr. John Rwamihigo, with the Department of Commerce and Insurance's Data Processing Division, demonstrated to the Board the proposed on-line license renewal process for the Board of Pharmacy.

DIRECTOR'S REPORT

**JANEY FALK, DPH
BRIDGETON, NJ**

Dr. Kendall Lynch received an e-mail from Dr. Janey Falk addressing her concerns to the Board relevant to a pharmacist who may refuse to fill a contraceptive prescription due to one's religious beliefs.

METH-FREE TENNESSEE ACT OF 2005 EXEMPT PRODUCTS LIST

Director Kendall Lynch noted to the board members on March 30, 2005, Governor Phil Bredesen signed into law the "*Meth-Free Tennessee Act of 2005*." This new law restricts the sale and dispensing of drug products containing ephedrine, pseudoephedrine, phenylpropalolamine, or their salts, isomers or salts of isomers. According to this law, the Tennessee Board of Pharmacy, in consultation with the Bureau of Investigation, shall determine whether a drug product or category of products is exempt from the restrictions contained in the law. The law defines an exempt product as a drug product or category of products that contains any immediate methamphetamine precursor, but it is not in a form that can be used in the manufacture of methamphetamine. Additionally, the law provides that the Board of Pharmacy is to maintain a public list of such exempted products or categories of products. Any person may request that a product may be included on the exemption list.

Requests for inclusion on the list of exempt products should be addressed to:

The Tennessee Board of Pharmacy
500 James Robertson Parkway
Second Floor
Nashville, TN 37243-1149

According to the law, the list shall include but not be limited to the following products:

- **All liquid preparations containing immediate methamphetamine precursors.**

“Immediate Methamphetamine Precursor” is defined as ephedrine, and pseudoephedrine, or phenylpropanolamine, or their salts or isomers or salts of isomers or any drug or other product that contains a detectable quantity of same.

- **Gel capsule forms of immediate methamphetamine precursors.**

Gel capsules are defined as “any soft gelatin liquid-filled capsule that contains a liquid suspension in a matrix of glycerin, polyethylene glycol, and propylene glycol along with other liquid substances.” Despite product manufacturer’s labeling, a gelatin-covered solid does not constitute a “gel capsule”.

Dr. Robert Mitchell motioned to **accept the Exempt Products List**; seconded by Dr. Robert Shutt. All were in favor and the motion carried.

DISTRICT III ANNUAL MEETING AUGUST 7 - 9, 2005 KNOXVILLE, TN

Director Kendall Lynch noted that the District III Annual Meeting will be held at the Marriott Hotel in Knoxville, Tennessee during August 7 - 9, 2005. The Director and one (1) member of the board will be compensated for travel reimbursement.

NATIONAL ASSOCIATION OF BOARDS OF PHARMACY COMMITTEE VOLUNTEERS

The National Association of Boards of Pharmacy is seeking individuals from active members of the boards of pharmacy to serve on the Association’s committees and task forces in 2005 – ’06. Dr. Sheila Mitchell, Dr. Julie Frazier, Mrs. Monica Franklin and Dr. Todd Bess expressed an interest in serving.

NATIONAL ASSOCIATION OF BOARDS OF PHARMACY PREVENTING THE ACCUMULATION OF SURPLUS CONTROLLED SUBSTANCES AT LONG TERM CARE FACILITIES

Dr. Kendall Lynch, Director, advised the Drug Enforcement Administration (DEA) is finalizing the Notice of Proposed Rulemaking published November 25, 2003 to prevent the accumulation of surplus controlled substances in long term care facilities that are dispensed but not administered to LTCF patients.

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SMITH DRUG STORE
8120 Rutledge Pike
Rutledge, TN 37861

Director Kendall Lynch stated on May 18, 2005, Smith Drug Store celebrated its **100th Anniversary**.

Dr. Ralph Staton was in attendance for the gala event to represent the Board. Congratulations!!

TENNESSEE PHARMACIST ASSOCIATION CONVENTION
JULY 18 - 21, 2005
ORANGE BEACH, AL

The TPA Convention will be held on July 18 - 21, 2005, in Orange Beach, Alabama.

BOARD MEMBERS SERVING ON ASSOCIATION BOARDS

Kendall Lynch, Director for the Board of Pharmacy, advised he received a memorandum from Assistant Commissioner Robert Gowan to remind the board members that while serving on any board or commission, the board or commission member shall not serve as an officer, or otherwise serve in a policy-making role, in any trade or professional association. The Department will not pay for board members to attend “trade shows”.

NABP ANNUAL MEETING

Director Kendall Lynch noted that Susan Delmonico, Executive Committee from District 1; Patricia Harris from District 8, and Larry Mokhiber for President-Elect have submitted letters seeking support for election to the respective positions. Dr. Reggie Dilliard was the sole nominee for District III representative to the Executive Committee.

CHARLES LAFAVOR, DPH – REQUEST TO APPEAR FOR REINSTATEMENT OF LICENSE
HARRISON, TN

Director Kendall Lynch stated Dr. Charles LaFavor furnished a letter of request relevant to the reinstatement of his pharmacist license. On September 28, 2004, a Final Order was filed with the Secretary of State's Office as a result of a Formal Hearing revoking Dr. LaFavor's pharmacist license. Dr. Lynch advised Dr. LaFavor was dispensing without a prescription on at least two (2) occasions and he stole bottles of Tussionex. Dr. Robert Mitchell motioned to not allow Dr. LaFavor to appear. The motion died for the lack of a second. Dr. Robert Shutt motioned to **deny reinstatement**; seconded by Dr. Robert Mitchell. All were in favor and the motion

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carried. Dr. Todd Bess made a **friendly amendment to the motion that the Board will consider the request to appear when his employer will advocate and appear on his behalf.** Dr. Robert Mitchell seconded the friendly amendment to the motion. All were in favor and the motion carried.

**LISA WAKEFIELD, DPH
MEMPHIS, TN**

Dr. Kendall Lynch, Director, stated Dr. Lisa Wakefield entered into a contract with the Board of Pharmacy on January 21, 2003 whereas her pharmacist license was placed on probation for a period of five (5) years. Dr. Wakefield does not wish to honor that agreement any longer and requests that her license be placed in “retired” status. Chief legal counsel, Mrs. Alison Cleaves **recommended to the Board that before Dr. Wakefield asks for the license to be returned, she must appear before the Board.** Dr. Sheila Mitchell motioned to **accept the counsel’s recommendation;** seconded by Dr. Robert Mitchell. All were in favor and the motion carried.

**JAMES PICKLE, DPH – MODIFICATION OF CONSENT ORDER
OLD HICKORY, TN**

Director Kendall Lynch noted in March, 2004, Dr. James Pickle's license was reinstated with a probationary term of ten (10) years. In the Consent Order for Reinstatement, it states the respondent shall not serve as PIC for a period of three (3) years, however, after a period of two (2) years, may petition the Board for a Modification and must obtain permission from the Board to be a floater. Dr. Pickle has fulfilled only fourteen (14) months of the requirement. Dr. Lynch advised a PIC position has become available where Dr. Pickle was previously employed. The Board office received a letter from his advocate, Dr. Tommy Malone, supporting Dr. Pickle's request. Dr. Lynch advised the position is not presently available but may be in the near future. Dr. Pickle is a floater at two (2) stores. Dr. Reggie Dilliard recused himself. Dr. Robert Mitchell motioned to **deny the request at this time and may petition to consider in March, 2006;** seconded by Mrs. Monica Franklin. The motion carried.

Chief legal counsel, Mrs. Alison Cleaves presented an Agreed Order whereas a registered pharmacy technician admitted to the theft and diversion of controlled substances. The respondent admitted in a written statement that while employed as a pharmacy technician, she wrote and filled nine (9) forged prescriptions. Dr. Julie Frazier motioned to **accept the Agreed Order**; seconded by Dr. Todd Bess. All were in favor and the motion carried.

ADJOURNMENT

Dr. Julie Frazier motioned to adjourn the Board of Pharmacy meeting on Wednesday, May 18, 2005 at 12:00 p.m. CDT; seconded by Dr. Sheila Mitchell. All were in favor and the motion carried.

Respectfully submitted,

Reggie Dilliard, President

Kendall M. Lynch, Director